

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 01:05-CR-0329</b>
	:	
	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>ZEARD WINFIELD</b>	:	

**ORDER**

AND NOW, this 16th day of November, 2005, upon consideration of defendant's motion (Doc. 44) for substitution of court-appointed counsel, and of Attorney Daniel M. Myshin's response thereto (see Doc. 46), and it appearing that jury selection in this case is scheduled to commence in less than three weeks (see Doc. 41), see Fischetti v. Johnson, 384 F.3d 140, 145 (3d Cir. 2004) ("[T]he need for an orderly and expeditious trial may require that a defendant proceed with counsel not of his preference."); see also Wheat v. United States, 486 U.S. 153, 164 (1988), and that defendant has not demonstrated good cause for the substitution of court-appointed counsel, see United States v. Welty, 674 F.2d 185, 188 (3d Cir. 1982) (stating that for a court to substitute counsel "the defendant must show good cause, such as a conflict of interest, a complete breakdown in communication, or an irreconcilable conflict with his attorney"), but that defendant may proceed in this case *pro se*, see United States v. Stubbs, 281 F.3d 109, 117 (3d Cir. 2002) ("[I]f the defendant does not establish good cause [for the substitution of counsel], the defendant then has to choose between proceeding *pro se*, or accepting counsel's

representation and stewardship.); see also Fischetti, 384 F.3d at 145-46 (same); Welty, 674 F.2d at 188 (same), it is hereby ORDERED that:

1. The motion (Doc. 44) for substitution of counsel is DENIED.
2. Defendant shall be permitted to file, on or before November 28, 2005, a response stating whether he elects to proceed in this case *pro se* or represented by his current court-appointed counsel, Attorney Daniel M. Myshin.
  - a. Should defendant elect to proceed *pro se* a hearing will be held to determine if defendant's election is competently and intelligently made. See United States v. Welty, 674 F.2d 185, 186 (3d Cir 1982); see also Johnson v. Zerbst, 304 U.S. 458 (1938).
  - b. Failure to file a response will result in the continued representation of defendant by Attorney Daniel M. Myshin.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge